

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**WILLIAM RILEY, DECEASED;
VICKI RILEY AND LANDON RILEY**

RESPONDENTS,

**v.
CITY OF LIBERTY, MISSOURI AND
MIDWEST PUBLIC RISK OF MISSOURI**

APPELLANTS.

DOCKET NUMBER WD75879

DATE: July 30, 2013

Appeal From:

Labor and Industrial Relations Commission

Appellate Judges:

Special Division: Joseph M. Ellis, Presiding Judge, Gary D. Witt, Judge and Robert Clayton III,
Special Judge

Attorneys:

Stacey L. Dungan, Kansas City, MO, for respondents.

Kip A. Kubin, Leawood, KS, for appellants.

MISSOURI APPELLATE COURT OPINION SUMMARY

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RESPONDENTS,

v.

**CITY OF LIBERTY, MISSOURI AND
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No. WD75879

Labor and Industrial Relations Commission

Before Special Division: Joseph M. Ellis, Presiding Judge, Gary D. Witt, Judge and Robert Clayton III, Special Judge

William Riley ("Riley") was employed by the City of Liberty, Missouri ("Liberty"), as a Deputy Fire Chief. In the early morning hours of October 6, 2004, Riley died from cardiac arrest while at home. His widow filed a timely claim with the Missouri Division of Workers' Compensation seeking death and funeral benefits. The Labor and Industrial Relations Commission ("Commission") found that Riley suffered an accident arising out of and in the course of his employment with the fire department. The Commission granted an award of weekly death benefits, and the City of Liberty ("Liberty") and its insurance carrier, Midwest Public Risk of Missouri, appealed. In its sole point on appeal, Liberty contends that the Commission erred in its finding that Riley sustained an accident arising out of and in the course of his employment that resulted in his death.

AFFIRMED

Special Division Holds:

The Commission did not err in its findings of fact when it relied on a medical expert's opinion that Riley's job as Deputy Fire Chief and EMS Director was a substantial factor in causing his injury and subsequent death. Because Riley's death occurred prior to a 2005 amendment to Workers' Compensation law, Vicki Riley's burden of proof was to prove that her husband's job was a "substantial factor" in causing his injury and not the "prevailing factor." Even though some of the evidence, from the witnesses that the Commission found to be credible, was contradictory it is the job of the Commission to resolve those contradictions. The award was supported by substantial and competent evidence.

Opinion by Gary D. Witt, Judge

July 30, 2013

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